



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 24, 2010

Mr. Stephen C. Carlson
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603

RE: Phusion Projects, LLC

Dear Mr. Carlson:

On November 17, 2010, the U.S. Food and Drug Administration (FDA) issued notice to Phusion Projects, LLC that its product, Four Loko, contains caffeine and other stimulants that are "unsafe food additive[s]" not generally safe for consumption under the federal Food, Drug and Cosmetics Act, 21 U.S.C. § 321(s), 348. After reviewing the regulatory status of its ingredients, the FDA declared the product adulterated pursuant to 21 U.S.C. § 342(a)(2)(C) and demanded your client's prompt action to correct this violation.

As caffeinated alcohol beverages have gained popularity among teens and college students, reports of alcohol poisoning and serious injury have become all too common. Accordingly, we are gravely concerned that your client's caffeinated alcohol products will remain in the stream of commerce for up to several weeks or months. In light of the FDA's recent findings, we believe that any continued distribution or sale of these products may be in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 et al., the Food, Drug and Cosmetic Act, 410 ILCS 620 et al., and the Liquor Control Act of 1934, 235 ILCS 5/1 et al.

The Illinois Attorney General's Office, Illinois Department of Public Health, and Illinois Liquor Control Commission hereby demand that you immediately cease all production, marketing, and sales of these dangerous products in the State of Illinois. If you do not comply with this demand, our office may promptly seek injunctive relief and civil penalties available under the Consumer Fraud Act and the Food, Drug and Cosmetic Act. In addition, your client may face a revocation of its license to manufacture, market, or sell any alcohol products in the State of Illinois.

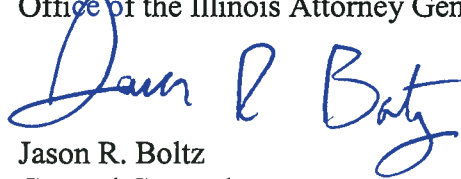
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We look forward to receiving a prompt response with your plan for immediate removal of Four Loko and all similar products from the marketplace. If you have any questions, please feel free to contact Assistant Attorneys General Joshua Orenstein, (312) 814-4987, or Christine Nielsen, (312) 814-6796.

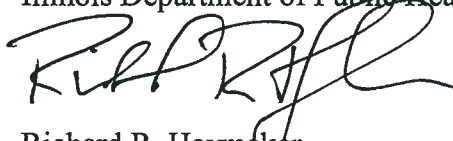
Sincerely,



Deborah Hagan
Chief, Consumer Protection Division
Office of the Illinois Attorney General



Jason R. Boltz
General Counsel
Illinois Department of Public Health



Richard R. Haymaker
Chief Legal Counsel
Illinois Liquor Control Commission